

FILED '10 MAR 11 10:41 USDC-ORE

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
EUGENE DIVISION

TIMOTHY EARL SCHNEIDER,

Plaintiff,

v.

COMMISSIONER, SOCIAL SECURITY  
ADMINISTRATION

Defendant.

09-cv-06177-TC

FINDINGS AND  
RECOMMENDATION

COFFIN, Magistrate Judge:

Plaintiff filed a complaint for review of the final decision of the Commissioner (#2) on June 19, 2009. Defendant filed its answer (#6) on September 21, 2009 and the transcript of Social Security administrative record (#7) the following day. Pursuant to the Social Security Case Procedural Order (#3), Plaintiff was required to file a memorandum in support of the petition for review not later than 60 days after service of the answer. To date, the memorandum has not been filed. This court issued an order to show cause (#8) in writing by 2/19/2010 why this action should not be dismissed for failure to prosecute. The copy of the order mailed to

Plaintiff was returned as undeliverable. Plaintiff has failed to inform the court of his change in mailing address and other contact information. Additionally he has not responded to the order to show cause.

This action should be dismissed for failure to prosecute and failure to comply with a court order. The five factors for dismissal discussed in *Malone v. United States Postal Service*, 833 F.2d 128 (9th Cir. 1987) have been weighted and indicate that dismissal is proper.

DATED This 11 day of March, 2010.

  
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THOMAS M. COFFIN  
United States Magistrate Judge